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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-292

13 **MICHELE CARLA CORWIN,**  
14 **a.k.a. MICHELE CARLA GERMANO**  
2350 Peacock Ave., #102  
Ventura, CA 93003

**A C C U S A T I O N**

15 Registered Nurse License No. 536909

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation  
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing  
21 ("Board"), Department of Consumer Affairs.

22 2. On or about September 19, 1997, the Board issued Registered Nurse  
23 License Number 536909 to Michele Carla Corwin, also known as Michele Carla Germano  
24 ("Respondent"). Respondent's registered nurse license was in full force and effect at all times  
25 relevant to the charges brought herein and will expire on August 31, 2009, unless renewed.

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1                   7.       Code section 4022 states:

2                   "Dangerous drug" or "dangerous device" means any drug or device unsafe  
3 for self-use in humans or animals, and includes the following:

4                   (a) Any drug that bears the legend: "Caution: federal law prohibits  
5 dispensing without prescription," "Rx only," or words of similar import.

6                   (b) Any device that bears the statement: "Caution: federal law restricts this  
7 device to sale by or on the order of a -----," "Rx only," or words of similar  
8 import, the blank to be filled in with the designation of the practitioner licensed to  
9 use or order use of the device.

10                  (c) Any other drug or device that by federal or state law can be lawfully  
11 dispensed only on prescription or furnished pursuant to Section 4006.

12                   8.       Code section 4060 states, in pertinent part:

13                   No person shall possess any controlled substance, except that furnished to  
14 a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
15 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
16 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
17 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant  
18 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or  
19 a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause  
20 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.  
21 This section shall not apply to the possession of any controlled substance by a  
22 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
23 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
24 practitioner, or physician assistant, when in stock in containers correctly  
25 labeled with the name and address of the supplier or producer . . .

26                   9.       Health and Safety Code ("H&S" Code) section 11170 states that no person  
27 shall prescribe, administer, or furnish a controlled substance for himself.

28                   10.     H&S Code section 11173, subdivision (a), states, in pertinent  
part, that "[n]o person shall obtain or attempt to obtain controlled substances, or procure or  
attempt to procure the administration of or prescription for controlled substances, (1) by fraud,  
deceit, misrepresentation, or subterfuge . . ."

                  11.     California Code of Regulations, title 16, section ("Regulation") 1442  
states:

                  As used in Section 2761 of the code, 'gross negligence' includes an extreme  
departure from the standard of care which, under similar circumstances, would have  
ordinarily been exercised by a competent registered nurse. Such an extreme  
departure means the repeated failure to provide nursing care as required or failure to  
provide care or to exercise ordinary precaution in a single situation which the nurse  
knew, or should have known, could have jeopardized the client's health or life.

1                   **CONTROLLED SUBSTANCES/DANGEROUS DRUGS AT ISSUE**

2                   12.     **"Morphine Sulfate"** is a Schedule II controlled substance as designated by  
3 H&S Code section 11055, subdivision (b)(1)(M), and is a dangerous drug within the meaning of  
4 Code section 4022 in that it is available by prescription only.

5                   13.     **"Fentanyl"** is a Schedule II controlled substance as designated by H&S  
6 Code section 11055, subdivision (c)(8).

7                   **COST RECOVERY**

8                   14.     Code section 125.3 provides, in pertinent part, that the Board may request  
9 the administrative law judge to direct a licensee found to have committed a violation or  
10 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
11 and enforcement of the case.

12                   **FIRST CAUSE FOR DISCIPLINE**

13                   **(Diversion and Possession of Controlled Substances)**

14                   15.     Respondent is subject to disciplinary action pursuant to Code section 2761,  
15 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
16 subdivision (a), in that on or about and between August 24, 2004, and September 21, 2004, while  
17 on duty as a registered nurse in the Intensive/Critical Care Unit ("ICCU") at Community  
18 Memorial Hospital ("CMH") in Ventura, California, Respondent did the following:

19                   **Diversion of Controlled Substances:**

20                   a.     Respondent obtained the controlled substances Morphine Sulfate and  
21 Fentanyl by fraud, deceit, misrepresentation, or subterfuge, in violation of H&S Code section  
22 11173, subdivision (a), as follows:

23                   1.     On or about and between August 24, 2004, and August 25, 2004,  
24 Respondent removed varying quantities of Morphine Sulfate from the Pyxis under the name of  
25 Patient A when the quantities of the medication removed from the Pyxis were in excess of the  
26 doses ordered by the patient's physician. Further, Respondent failed to chart the administration  
27 or wastage of the remaining Morphine Sulfate in the patient's Medication Administration Record  
28 ("MAR") or Nurse's Notes/Flowsheet ("NNF") or falsified or made grossly incorrect, grossly

1 inconsistent, or unintelligible entries in the MAR or NNF to conceal her diversion of the  
2 remaining Morphine Sulfate, as more particularly set forth in paragraph 16 below.

3           2.       On or about and between September 3, 2004, and September 21, 2004,  
4 Respondent removed Fentanyl under the names of Patients B and C when the quantities of the  
5 medication removed from the Pyxis were in excess of the doses ordered by the patients'  
6 physicians. Further, Respondent failed to chart the administration or wastage of the remaining  
7 Fentanyl in the patients' MAR or NNF or falsified or made grossly incorrect, grossly  
8 inconsistent, or unintelligible entries in the MAR or NNF to conceal her diversion of the  
9 remaining Fentanyl, as more particularly set forth in paragraph 16 below.

10                   **Possession of Controlled Substances:**

11           b.       On or about and between August 24, 2004, and September 21, 2004,  
12 Respondent possessed unknown quantities of the controlled substances Morphine Sulfate and  
13 Fentanyl without valid prescriptions from a physician, dentist, podiatrist, optometrist,  
14 veterinarian, or naturopathic doctor, in violation of Code section 4060.

15                   **SECOND CAUSE FOR DISCIPLINE**

16                   **(False Entry in Hospital/Patient Records)**

17           16.       Respondent is subject to disciplinary action pursuant to Code section 2761,  
18 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
19 subdivision (e), in that on or about and between August 24, 2004, and September 21, 2004, while  
20 on duty as a registered nurse in the ICCU at CMH in Ventura, California, Respondent falsified,  
21 or made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital, patient, or  
22 other records pertaining to the controlled substances Morphine Sulfate and Fentanyl, as follows:

23           a.       On August 24, 2004, at 2136 hours, Respondent withdrew 8 mg of  
24 Morphine Sulfate from the Pyxis under patient A's name. Respondent then removed 8 mg each  
25 time at 0416 and 0627 hours and 4 mg at 2135 hours on August 25, 2004. Respondent charted  
26 the administration of 3 mg of Morphine Sulfate each time at 2130 hours on August 24, 2004, and

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1 0425, 0630, and 2130 hours on August 25, 2004, but failed to chart the administration or wastage  
2 of the remaining 16 mg in the patient's MAR or NNF or otherwise account for the disposition of  
3 the medication.

4 b. On September 3, 2004, at 2041 hours, Respondent withdrew 100 mcg of  
5 Fentanyl from the Pyxis under patient B's name. Respondent then removed 200 mcg each time at  
6 0239 and 0438 hours on September 4, 2004. Respondent charted the administration of 50 mcg of  
7 Fentanyl each time at 2100 hours on September 3, 2004, and at 0230 and 0500 hours on  
8 September 4, 2004, but failed to chart the administration or wastage of the remaining 350 mcg in  
9 the patient's MAR or NNF or otherwise account for the disposition of the medication.

10 c. On September 20, 2004, at 2026 hours, Respondent withdrew 100 mcg of  
11 Fentanyl from the Pyxis under patient C's name. Respondent then removed 100 mcg each time at  
12 2150 and 2258 hours on September 20, 2004; 100 mcg at 0010 hours on September 21, 2004;  
13 and 200 mcg each time at 0335 and 0614 hours on September 21, 2004. Respondent charted the  
14 administration of 75 mcg of Fentanyl each time at 2030, 2200, and 2300 hours on September 20,  
15 2004, and at 0000, 0335, and 0615 hours on September 21, 2004, but failed to chart the  
16 administration or wastage of the remaining 350 mcg in the patient's MAR or NNF or otherwise  
17 account for the disposition of the medication.

### 18 THIRD CAUSE FOR DISCIPLINE

#### 19 (Gross Negligence)

20 17. Complainant incorporates by reference as though fully set forth herein the  
21 allegations contained in paragraphs 15 and 16 above.

22 18. Respondent is subject to disciplinary action pursuant to Code section 2761,  
23 subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about and between  
24 August 24, 2004, and September 21, 2004, while on duty as a registered nurse in the ICCU at  
25 CMH, Respondent was guilty of gross negligence within the meaning of Regulation 1442, as  
26 follows:

27 a. Respondent possessed, without physician's orders, the controlled  
28 substances Morphine Sulfate and Fentanyl.

1                   b.       Respondent made grossly incorrect and inconsistent entries in the hospital  
2 and patient records of Patients A, B, and C.

3                                           **FOURTH CAUSE FOR DISCIPLINE**

4                                                           **(Incompetence)**

5                   19.       Complainant incorporates by reference as though fully set forth herein the  
6 allegations contained in paragraphs 15 and 16 above.

7                   20.       Respondent is subject to disciplinary action pursuant to Code section 2761,  
8 subdivision (a)(1), on the grounds of unprofessional conduct. On or about and between August  
9 24, 2004, and September 21, 2004, while on duty as a registered nurse in the ICCU at CMH,  
10 Respondent was guilty of incompetence, within the meaning of Regulation 1443, as follows:

11                   a.       Respondent possessed, without physician's orders, the controlled  
12 substances Morphine Sulfate and Fentanyl.

13                   b.       Respondent made grossly incorrect and inconsistent entries in the hospital  
14 and patient records of Patients A, B, and C.

15                                                           **PRAYER**

16                   WHEREFORE, Complainant requests that a hearing be held on the matters herein  
17 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

18                   1.       Revoking or suspending Registered Nurse License Number 536909, issued  
19 to Michele Carla Corwin, also known as Michele Carla Germano;

20                   2.       Ordering Michele Carla Corwin, also known as Michele Carla Germano, to  
21 pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of  
22 this case, pursuant to Business and Professions Code section 125.3; and

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1                    3.        Taking such other and further action as deemed necessary and proper.

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DATED: 5/18/09

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant